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REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116  
Corres. and Mail EXPEDITED PROCEDURE  
GROUP 2682

BOX AF

PATENT APPLICATION  
Q-63443

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Ivar MORTENSEN, et al.

Appln. No.: 09/809,288

Group Art Unit: 2682

Confirmation No.: 4961

Examiner: Charles R. Craver

Filed: March 16, 2001

For: OPERATING A CELLULAR TELECOMMUNICATION SYSTEM

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**REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116**

**AND**

**REQUEST FOR INTERVIEW**

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This Request for Reconsideration is filed in response to the **final** Office Action (Paper No. 8) mailed July 14, 2004.

**N.B.** First, Applicant again respectfully requests the Examiner to return an initialed copy of the Form PTO-1449 enclosed with the Information Disclosure Statement filed with the application on March 16, 2001. (For the Examiner's convenience, Applicant attaches a copy of the Form PTO-1449.)

Applicant respectfully traverses the **final** rejection of claims 1-5 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Sawyer '195 in view of Parmenter '052.

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Applicant respectfully submits that the Examiner has not made out a *prima facie* case of obviousness.

Applicant notes that this **final** rejection is based on new grounds, in that claims 1-5 had previously been rejected as being anticipated by, or obvious over, only Parmenter alone.

To summarize, Applicant respectfully submits that there is no motivation or suggestion to modify Sawyer with Parmenter as proposed by the Examiner, and, furthermore, that even if, for some unknown reason, the disclosures of Sawyer and Parmenter were combined, there would not have been produced the subject matter of any of the claims 1-5.

More specifically, Sawyer discloses a system and a method for setting output power parameters in a cellular mobile telecommunication system where optimum output levels on radio channels of a system are set based on evaluation of “data obtained from automatic digital voice channel power regulation in either the base station, or mobile station, or both” (see Abstract and col. 10, line 38 through col. 18, line 45).

The Examiner acknowledges that “Sawyer fails to disclose that the transmission may comprise more than one service with minimum and maximum values” (see Office Action, page 2). In fact, while Sawyer discloses different channel types having different power level controls (see Fig. 6), **nowhere** does Sawyer disclose, teach, or even remotely suggest limiting power levels of different services by individual minimum and maximum values, as recited in Applicant’s independent claims 1 and 5. To the **contrary**, Sawyer discloses a method and a system where maximum output power levels for all channels of a base station are set based on

maximum output power level used on automatically regulated channels of the base station (see col. 3, lines 1-10 and 22-32).

On the other hand, as explained in Applicant's Amendment filed April 19, 2004, Parmenter, which discloses an algorithm for adjusting output power of each channel in a transmission from mobile cellular sources, such as "sources onboard the aircraft", "to the satellite constellation for relay to the ground" (see col. 1, lines 27-33, emphasis added), has **nothing** to do with a method and system for "transmission from the base station to the mobile station", as recited in Applicant's independent claims 1 and 5. That is, Parmenter does not disclose power control of transmission from **a base station to a mobile station**. Instead, Parmenter discloses power control of transmission from a mobile station to a satellite.

Thus, and as further explained in Applicant's April 19, 2004 Amendment, the system disclosed by Parmenter does not include a base station communicating with at least one mobile station. Instead, Parmenter describes the function of a satellite which relays to the ground the signals sent to the satellite by a mobile station (col. 1, lines 42 to 48). Clearly, one skilled in the art of cellular telecommunication would readily appreciate that such a satellite never functions as a base station with regard to signal transmission including power control. Instead, such a satellite simply receives signals from the mobile station, transponds these signals to other frequencies, and relays these signals to the ground station.

According to Parmenter, the power of the individual channels shall be as high as possible, and just a little lower than a power that would damage the power amplifier 106. For that

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purpose, in Parmenter the output power of each transmission channel is dynamically adjusted as a function of the number of active data and voice transmission channels (see col. 4, lines 35-44). Thus, in Parmenter, as long as the number of voice channels and the number of data channels remain constant, the output power of each of the active data channels and voice channels does **not change** (col. 2 lines 64 and 65, stating that a transmitter of a radio channel transmits at a fixed power level).

In **contradistinction** to Parmenter, according to Applicant's claimed invention, signal transmission from the base station to mobile stations does not require fixed power levels. That is, Applicant's independent claims 1 and 5 explicitly recite **increasing or decreasing** the power levels "based on a transmission power control loop".

Thus, Applicant's independent claims 1 and 5, as well as the dependent claims 2-4 (which incorporate all the novel and unobvious features of their base claim 1), would not have been obvious from Sawyer and Parmenter at least for these reasons.

Furthermore, and contrary to the Examiner's analysis, one of ordinary skill in the art of cellular telecommunication systems would **not** have been motivated to combine the **unrelated** teachings of Parmenter and Sawyer.

The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to add to Sawyer the feature of two services (voice and data) wherein each service has its own maximum and minimum levels as disclosed in Parmenter,

allegedly because “Parmenter discloses that such allows the most power without violating system integrity” (see Office Action, page 2).

As explained above, **Sawyer** discloses a system and method where maximum output power levels for all channels of a base station are set based on the maximum output power level used on automatically regulated channels of the base station. On the other hand, **Parmenter** discloses an algorithm for adjusting output power of each channel in a transmission from a mobile cellular source, such as sources onboard the aircraft, to the satellite constellation for relay to the ground, the output power of each transmission channel being dynamically adjusted as a function of the number of active data and voice transmission channels (col. 4, lines 35-44).

**Nowhere** does either Sawyer, or Parmenter, teach or even remotely suggest that Parmenter’s algorithm for relaying signals (which are sent to the satellite by a mobile station) to the ground should, in some unknown manner and for some unknown reason, be implemented in power management of signals in a base station.

In this regard, the Examiner’s allegation that such an implementation is not only possible, but would have been obvious for the purpose of allowing “the most power without violating system integrity”, is **not supported** by the actual disclosures of Sawyer and Parmenter. In fact, the Examiner does not provide any reasoning as to how such an implementation may be achieved.

Thus, the Examiner’s prior art rejection under 35 U.S.C. § 103(a) should be withdrawn for the additional reason of failing to provide a *prima facie* case of obviousness, in that there is

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not presented any factual basis to support the alleged motivation to combine the teachings of Sawyer and Parmenter.

In summary, then, and for the reasons explained above, Applicant respectfully submits that the disclosures of Sawyer and Parmenter fail to render *prima facie* obvious the subject matter of each of claims 1-5. Thus, Applicant respectfully requests the Examiner to reconsider and withdraw the two statutory rejections under 35 U.S.C. § 103(a), and to find the application to be in condition for allowance with all of claims 1-5; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

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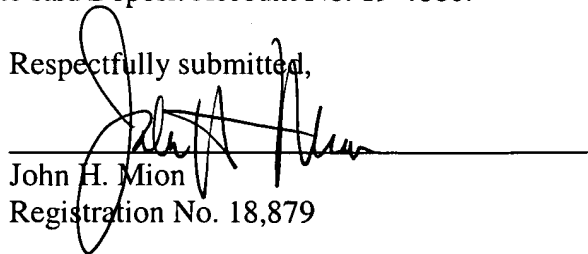
WASHINGTON OFFICE

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CUSTOMER NUMBER

Date: October 12, 2004

Respectfully submitted,

  
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